

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

FRANK DISTEFANO, §  
§  
Plaintiff, §  
§  
v. § Case No. 6:20-cv-385-JDK-JDL  
§  
KEITH GORSUCH, et al., §  
§  
Defendants. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Frank Distefano filed this pro se civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition.

On August 31, 2020, Judge Love ordered Plaintiff to amend his complaint and to pay an initial partial filing fee, as required by 28 U.S.C. §1915(b). Docket Nos. 12, 13. Plaintiff received copies of these orders on September 14, 2020, but has not complied or otherwise responded. *See* Docket No. 14. On November 3, 2020, Judge Love issued a Report recommending that this lawsuit be dismissed without prejudice for want of prosecution and failure to obey an order of the Court. Docket No. 15. Plaintiff received a copy of this Report by December 10, 2020, but no objections have been received. *See* Docket No. 16.

This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court

examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 15) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED**, without prejudice, for want of prosecution and Plaintiff's failure to comply with an order of the Court.

So **ORDERED** and **SIGNED** this **3rd** day of **February, 2021**.



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JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE